

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

FILED BY CLERK

JUL 12 2012

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	2 CA-CR 2012-0243-PR
)	DEPARTMENT B
Respondent,)	
)	<u>MEMORANDUM DECISION</u>
v.)	Not for Publication
)	Rule 111, Rules of
THOMAS MICHAEL PIERCE,)	the Supreme Court
)	
Petitioner.)	
_____)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause Nos. CR20582 and CR20748

Honorable Howard Hantman, Judge

REVIEW DENIED

Barbara LaWall, Pima County Attorney
By Jacob R. Lines

Tucson
Attorneys for Respondent

Thomas Michael Pierce

Florence
In Propria Persona

ESPINOSA, Judge.

¶1 Thomas Pierce petitions for review of the trial court’s December 5, 2011, “denial of relief of his ‘Notice of Error In Court’s Ruling and Procedure Of Status conference and Order requiring New Hearing and Habeas Relief.’” The November 2011 “Notice of Error” Pierce filed below pertained to the court’s July 2010 denial of his May 2010 petition for writ of habeas corpus.

¶2 In its July 2010 ruling, the trial court construed Pierce’s petition as one for post-conviction relief pursuant to Rule 32, Ariz. R. Crim. P., and denied it. Pierce filed a petition for review of the court’s ruling in August 2010 and this court granted review but denied relief, concluding the court had correctly construed and denied Pierce’s claims. *State v. Pierce*, No. 2 CA-CR 2010-0264-PR (memorandum decision filed Dec. 17, 2010). We thereafter denied Pierce’s motion for reconsideration, our supreme court denied review, and the mandate on our memorandum decision was filed on June 14, 2011.

¶3 On November 29, 2011, Pierce filed his “Notice of Error,” asserting the trial court’s July 2010 ruling had been erroneous because (1) his attempt to file an amended petition in June 2010 had been unsuccessful and (2) the court had not considered his unfiled amended petition before denying relief. But Pierce has waived any such claim by failing to include it in his petition for review of the court’s July 2010 decision. *See* Ariz. R. Crim. P. 32.9(c) (after final decision on petition for post-conviction relief, “any party aggrieved may petition the appropriate appellate court for review of the actions of the trial court”; “[f]ailure to raise any issue that could be raised in the petition . . . for review shall constitute waiver of appellate review of that issue”).

¶4

For the foregoing reasons, review is denied.

/s/ Philip G. Espinosa
PHILIP G. ESPINOSA, Judge

CONCURRING:

/s/ Garye L. Vásquez
GARYE L. VÁSQUEZ, Presiding Judge

/s/ Virginia C. Kelly
VIRGINIA C. KELLY, Judge